

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOHN E. MARKS,**

**Plaintiff,**

**vs.**

**Case No.: 2:15-cv-550  
JUDGE GEORGE C. SMITH  
Magistrate Judge Kemp**

**COMMISSIONER OF  
SOCIAL SECURITY,**

**Defendant.**

**ORDER**

On January 20, 2016, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's statement of errors be overruled and that judgment be entered in favor of the Defendant, the Commissioner of Social Security. (*See Report and Recommendation*, Doc. 18). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 19). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's objections basically restate the arguments he already made in the Statement of Errors, including specifically that the Appeals Council erred by failing to consider newly submitted evidence. Counsel for the Commissioner of Social Security responded asserting that the Appeals Council's denial of review of the additional evidence was unreviewable and therefore the Commissioner's decision should be affirmed on this basis alone.

The Court has carefully considered the arguments of the parties regarding the newly submitted evidence to the appeals council and agrees with the Magistrate Judge's analysis. Further, the Court agrees with the conclusion that even if this matter were remanded for further review by the ALJ it would futile. Therefore, Plaintiff's issues have been thoroughly considered and overruled in the *Report and Recommendation*. Further this Court has carefully considered Plaintiff's objections, and for the reasons stated in the *Report and Recommendation*, this Court finds that the objections are without merit.

Accordingly, the *Report and Recommendation*, Document 18, is **ADOPTED** and **AFFIRMED**. Plaintiff's Objections are hereby **OVERRULED**. Plaintiff's Statement of Errors are hereby **OVERRULED**, and the decision of the Commissioner of Social Security is **AFFIRMED**.

The Clerk shall remove Document 18 from the Court's pending motions list, and enter final judgment in favor of Defendant, the Commissioner of Social Security.

**IT IS SO ORDERED.**

/s/ George C. Smith  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**